

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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| UNITED STATES OF AMERICA, | : | NO: 1:02-CV-00107 |
| et al., | : | |
| | : | |
| Plaintiffs, | : | |
| | : | ORDER |
| v. | : | |
| | : | |
| BOARD OF COUNTY COMMISSIONERS | : | |
| OF HAMILTON COUNTY, OHIO, | : | |
| et al., | : | |
| | : | |
| Defendants. | : | |

The Parties met before The Honorable S. Arthur Spiegel, United States Senior District Judge, on September 3, 2003, for a status conference in this matter.

At the conference the parties indicated that they have not been able to complete the draft proposed Consent Decree as of this time, but need four more weeks in order to do so. The parties also indicated that the County wants a sixty-day period to comment on the draft proposed Consent Decree before it is then formally lodged with the Court. Intervenor Sierra Club indicated its concern that citizens are suffering the effects of sewage backing up into their basements, and requested release from stay to pursue its citizens' suit.

The Court signaled its dismay with the delays in this case and will not tolerate further delay in this matter. As such, the Court orders that the parties must complete the draft proposed

Consent Decree by October 7, 2003, file such draft proposed Decree with this Court, and provide such draft proposed Decree to the Intervenor Sierra Club and Marilyn Wall for their review. In the event that Plaintiffs cannot complete a draft of a proposed Consent Decree addressing all of the issues in this case by October 7, 2003, the government Plaintiffs shall file an Amended Complaint within two weeks of that date to include combined sewer overflows ("CSO's") and wastewater treatment plants ("WWTP's"). The case would therefore proceed according to rule to a two-week bench trial on December 1, 2003, a peremptory setting. A Final Pretrial Conference would be scheduled accordingly, in November 2003. Similarly, such failure to submit a draft proposed Consent Decree by October 7, 2003, shall result in a release on the stay of Sierra Club to pursue its citizens' suit.

If the parties file the draft proposed Consent Decree by October 7, 2003, then the County shall have approximately two months in order to review such decree and to sign off on it before it is formally lodged with the Court on December 4, 2003. If the County fails to sign off on such decree, and the decree is not lodged with the Court by December 4, 2003, then in the same fashion as above, Plaintiffs shall have two weeks to file an Amended Complaint, the stay on the citizen's suit shall be lifted, and a bench trial shall be set without delay.

Assuming the Consent Decree is formally lodged with the

Court by December 4, 2003, the government shall publish notice in the Federal Register and the required thirty-day public comment period shall take place. Such comment period shall end no later than February 6, 2004. The Court shall subsequently conduct a status conference at 3:00 P.M. on February 12, 2004. The government agencies must respond to the public comments forthwith and then shall file a motion for entry of the Consent Decree in accordance with the law.

Accordingly, the Court ORDERS that the government Plaintiffs submit their draft proposed Consent Decree on or before October 7, 2003. Failure of the parties to so submit such draft on such date, or failure to lodge a final proposed Consent Decree by December 4, 2003, shall trigger the Court's intervention as articulated herein.

SO ORDERED.

Dated: _____

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge